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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,639	11/06/2001	Michael R. Rochrs	FBSI-25,939	5614

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EXAMINER

ROJAS, OMAR R

ART UNIT PAPER NUMBER

2874

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/986,639

Applicant(s)

ROEHRS ET AL.

Examiner

Omar Rojas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the reference numbers for Figures 26-49 have generally poor legibility. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities:

In page 7, line 5, the word "of" should be inserted after the words "perspective view".

In page 11, line 17, a punctuation space should appear between the word "frame" and the number "18".

In page 13, line 8, the apostrophe in the term "O'ring" should be changed to a hyphen.

Appropriate correction is required.

3. Applicant's cooperation is requested in correcting any additional errors of which applicant may become aware in the specification.

### ***Claim Objections***

4. Claims 1-3, 5-8, 11, 16, 19, and 21 are objected to because of the following informalities:

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a. Claims 1 and 21 recite the limitation "the insert" without providing sufficient antecedent basis.

- b. Claim 2 recites the limitation "said first insert cap" without providing sufficient antecedent basis.
- c. Claim 3 recites the limitation "said two insert cap cavities" without providing sufficient antecedent basis.
- d. Claims 5, 7, 8, 11, 16, and 19 all appear to contain typographical and/or grammatical errors.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

- 5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 6. Claims 9 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- 7. Claim 9 recites the limitation "said two insert cap cavities." There is insufficient antecedent basis for this limitation in the claim.
- 8. Claim 17 recites the limitation "said second connector face of said second connector." There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

- 9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**10. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,496,213 to Borsuk.**

As seen in Fig. 2, Borsuk shows a multi-channel fiber optical cable connector comprising: translating termini (18) having terminal ends (35) which extend out of the forward end (92) of an insert sleeve (24) to inherently prevent mud or refuse from becoming domiciled within the bores (28) of the insert (24) sleeve and within guide sleeves (37) which are contained within the insert sleeve (24). *Id.* at col. 2, ll. 6-55.

***Double Patenting***

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**12. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6,357,929 in view of Borsuk.**

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The '929 patent claims disclose nearly all of the features and limitations recited by claims 1-23 of the instant application including: a multi-channel fiber optic cable

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connector comprising termini, a first and second connector housing, alignment members, protuberances to gimbal said termini, first and second seal elements, etc.

The '929 patent claims appear to only differ from claims 1-23 in that translating termini are not expressly recited in the '929 patent claims.

Borsuk, on the other hand, as previously discussed under the 102 section, does teach translating termini.

The ordinary skilled artisan would have wanted to use translating termini in the '929 patent to allow the ferrules to retract rearwardly and the end faces [terminal ends] to maintain contact as taught by Borsuk. See Borsuk at col. 2, ll. 35-41.

***Allowable Subject Matter***

13. Claims 2-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and provided a terminal disclaimer is filed in compliance with 37 CFR 1.321(c) to overcome the actual or provisional rejection based on a nonstatutory double grounds.

14. Claims 8, 10-16, and 18-23 would be allowable if a terminal disclaimer in compliance with 37 CFR 1.321(c) is filed to overcome the actual or provisional rejection based on a nonstatutory double grounds.

15. Claims 9 and 17 would be allowable if rewritten to overcome the rejection(s) ~~under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all~~ of the limitations of the base claim and any intervening claims and provided a terminal

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disclaimer in compliance with 37 CFR 1.321(c) is filed to overcome the actual or provisional rejection based on a nonstatutory double grounds.

16. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 2-8, the prior art does not disclose or suggest, alone or in combinations, a multi-channel fiber optic cable connector, comprising all the recited features including: an insert cap having alignment sleeves and termini therein; a first housing having a first connector face; an insert cap tower with two first insert cap tangs which engage in a keyed arrangement with a second housing having a second insert cap and two second tangs.

Regarding claims 9-23, the prior art does not disclose or suggest, alone or in combinations, a multi-channel fiber optic cable connector comprising: an insert cap having alignment sleeves and termini therein, a housing having an insert body; a plurality of floating collars which are biased with energizing means; first and second seal elements which engage in a sealed fashion with the floating collars; and features which allow the terminal ends of the termini to move angularly with respect to longitudinal axes thereof.

### ***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 6,371,660 to Roehrs et al. appears to disclose a similar invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Rojas whose telephone number is (703) 305-8528 and whose e-mail address is *omar.rojas@uspto.gov*. The examiner can normally be reached on Monday-Friday (7:00AM-3:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hemang Sanghavi, can be reached on (703) 305-3484. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722 for regular communications. The examiner's personal work fax number is (703) 746-4751.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Omar Rojas  
Patent Examiner  
Art Unit 2874

or  
August 10, 2003



HEMANG SANGHAVI  
PRINCIPAL EXAMINER